

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

3
4 UNITED STATES OF AMERICA)
5)
6 vs.) CR No. 19-10081-IT
7)
8 LAURA JANKE)

9 BEFORE: THE HONORABLE INDIRA TALWANI

10
11 PLEA

12
13 APPEARANCES:

14 OFFICE OF THE UNITED STATES ATTORNEY (By: Eric S. Rosen,
15 AUSA, Justin D. O'Connell, AUSA, Leslie Wright, AUSA),
16 One Courthouse Way, Boston, Massachusetts 02210. On
17 Behalf of the Government.

18 HUGGARD LAW LLC (By: Stephen G. Huggard, Esq.), 470
19 Atlantic Avenue, Boston, Massachusetts 02210. On Behalf
20 of the Defendant.

21 John Joseph Moakley United States Courthouse
22 Courtroom No. 9
23 One Courthouse Way
24 Boston, MA 02210
25 Tuesday, May 14, 2019
11:30 a.m.

26 Cheryl Dahlstrom, RMR, CRR
27 Official Court Reporter
28 John Joseph Moakley United States Courthouse
29 One Courthouse Way, Room 3510
30 Boston, MA 02210
31 Mechanical Steno - Transcript by Computer

1 P R O C E E D I N G S

2 THE CLERK: U.S. District Court is now in session.
3 The Honorable Judge Indira Talwani presiding. This is Case No.
4 19-cr-10081, United States v. Laura Janke. Will counsel please
5 identify themselves for the record.

6 MR. ROSEN: Good morning, your Honor. Eric Rosen,
7 Justin O'Connell, and Leslie Wright for the government.

8 THE COURT: Good morning.

9 MR. HUGGARD: Good morning, your Honor. Stephen
11:31 10 Huggard, Huggard Law LLC, for the defendant, Laura Janke, who's
11 present in the courtroom.

12 THE COURT: Good morning.

13 So I understand that Ms. Janke is looking to plead
14 guilty here this morning, is that correct?

15 MR. HUGGARD: Correct, your Honor.

16 THE COURT: Let's start out by having the clerk
17 administer the oath.

18 (Defendant sworn.)

19 THE CLERK: Please state your name for the record.

11:31 20 THE DEFENDANT: Laura Janke.

21 THE CLERK: Thank you.

22 THE COURT: Ms. Janke, do you understand you're now
23 under oath; and if you answer any of my questions falsely, your
24 answers may later be used against you in another prosecution
25 for perjury?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: And you may consult with your counsel at
3 any time during these proceedings.

4 How old are you, Ms. Janke?

5 THE DEFENDANT: Thirty-six.

6 THE COURT: What education level have you attained?

7 THE DEFENDANT: Master's degree.

8 THE COURT: As you stand here today, are you under the
9 influence of any drug or alcoholic beverage of any kind?

11:32 10 THE DEFENDANT: No.

11 THE COURT: Have you taken any medicine, prescription
12 or otherwise, that could affect your ability to understand
13 these proceedings and to testify truthfully?

14 THE DEFENDANT: No, your Honor.

15 THE COURT: As you stand here today, is there any
16 reason that you may not be able to understand the nature and
17 consequences of these proceedings?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: Have you received a copy of the
11:32 20 Indictment, the written charge, against you?

21 THE DEFENDANT: Yes.

22 THE COURT: Count 1 charges you with conspiracy to
23 commit racketeering, in violation of 18 U.S.C. Section 1962(d),
24 from in or about 2011 and continuing through February 2019.
25 The Indictment also includes forfeiture allegations. Do you

1 understand the charges?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that you're represented
4 by counsel?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Have you fully discussed the charges
7 against you and the facts and circumstances of this case with
8 counsel?

9 THE DEFENDANT: Yes, your Honor.

11:33 10 THE COURT: Are you fully satisfied with the counsel,
11 representation, and advice given to you in this case by your
12 attorney?

13 THE DEFENDANT: Very satisfied.

14 THE COURT: To counsel, have you communicated all
15 formal offers from the prosecution to accept a plea on terms
16 and conditions that may be favorable to the accused?

17 MR. HUGGARD: I have, your Honor.

18 THE COURT: And I understand, Ms. Janke, that you have
19 entered into a plea agreement with the United States Attorney's
11:33 20 Office, is that correct?

21 THE DEFENDANT: Yes.

22 THE COURT: I have a signed copy here dated -- you
23 signed on April 21st. Is that your signature?

24 THE DEFENDANT: Yes, that's my signature.

25 THE COURT: Okay. Did you have an opportunity to read

1 the agreement and discuss it with your lawyer before you signed
2 it?

3 THE DEFENDANT: Yes, I did.

4 THE COURT: Does the plea agreement contain all the
5 terms to which you have agreed?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand the terms of the plea
8 agreement?

9 THE DEFENDANT: Yes.

11:34 10 THE COURT: And, now, I understand -- I have another
11 document that's marked under seal. I understand from the
12 assistant U.S. attorney that that isn't supposed to be under
13 seal.

14 MR. ROSEN: Correct, your Honor. We filed it on the
15 docket with the consent of the defendant.

16 MR. HUGGARD: That was with our consent, your Honor.

17 THE COURT: Okay. Probably would have been better to
18 strike off the sentence on the first page that says "under
19 seal" so you wouldn't cause panic every time it surfaces.

11:34 20 MR. ROSEN: Sorry.

21 THE COURT: But -- okay.

22 So you did sign a second agreement, is that correct.

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And so these two agreements are the only
25 agreements you have with the United States Government, is that

1 correct?

2 THE DEFENDANT: Yes.

3 THE COURT: And has anyone made any promises or
4 assurances to you that are not in these two agreements?

5 THE DEFENDANT: No.

6 THE COURT: And has anyone threatened or pressured you
7 in any way to persuade you to accept these agreements?

8 THE DEFENDANT: No.

9 THE COURT: And do you understand that you cannot
11:35 10 withdraw your plea if I do not accept the sentencing
11 recommendation in the plea agreement?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And do you understand that, with regard to
14 the second agreement, while there is an agreement that, if you
15 provide substantial assistance, the U.S. Attorney will file a
16 motion to recommend the Court impose a sentence below the
17 advisory guidelines, the determination under that agreement as
18 to whether you did or did not provide substantial assistance
19 rests solely in the discretion of the U.S. Attorney? Do you
11:36 20 understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And more than that, it's based not just on
23 your truthfulness but on the value the government finds with
24 regard to your cooperation; do you understand that?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: So, for example, if circumstances develop
2 and your assistance isn't needed, they would not be obligated
3 to make such a motion even if you were willing and able to
4 provide the assistance; you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that you cannot withdraw
7 your plea if I do not accept the sentencing recommendation
8 there?

9 THE DEFENDANT: Yes, your Honor.

11:37 10 THE COURT: And are you pleading guilty then of your
11 own free will?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand the offense to which
14 you're pleading guilty is a felony?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you understand that if I accept your
17 plea you will be judged guilty of that offense?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that by being judged
11:37 20 guilty you may lose valuable civil rights, including the right
21 to vote in many states, the right to hold public office, to
22 serve on a jury, and the right to possess a gun or any kind of
23 firearm or ammunition?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Are you a United States citizen?

1 THE DEFENDANT: Yes.

2 THE COURT: Okay. I'm going to turn to Mr. Rosen now.
3 If you could please state the maximum possible penalties
4 provided by law.

5 MR. ROSEN: Judge, this is a one-count conspiracy --
6 Indictment charging the defendant with conspiracy to commit
7 racketeering, violation of Title 18 United States Code Section
8 1962(d). Penalty of up to 20 years in prison; supervised
9 release for three years; fine of \$250,000, twice the gross gain
11:38 10 or loss; special assessment of \$100; restitution; and
11 forfeiture to the extent charged in the Indictment. I do
12 believe for her there was forfeiture charged for the --
13 essentially the amount of bribes that we could allot to Ms.
14 Janke. That's set forth in Paragraph 131 of the Indictment.

15 THE COURT: And to be specific, the government is
16 looking for a \$356,047 forfeiture money judgment against Ms.
17 Janke and another defendant and \$7,750 to be entered in the
18 form of a money judgment against Ms. Janke, is that correct?

19 MR. ROSEN: That's in the Indictment. And then in the
11:39 20 plea agreement, we actually have a specific forfeiture amount
21 that we have allotted the two -- the amount of bribes were
22 essentially -- if I could just explain, were deposited into
23 football accounts -- by "football," I guess we mean soccer --
24 the accounts in the name of the football clubs that was jointly
25 controlled by Janke and Defendant Khosroshahin. That's spelled

1 K-h-o-s-r-o-s-h-a-h-i-n. And so we've been able to determine
2 approximately what the value was that was delivered to Ms.
3 Janke. And that's set forth in Paragraph 6(a) of the plea
4 agreement, and that amount is \$134,213.90. That would be the
5 forfeiture judgment that we will seek.

6 THE COURT: Okay. So that -- let me get to that page.
7 Actually, we'll turn to that in a minute when I turn to the
8 plea.

9 We were at this point talking about the maximum
11:40 10 sentences that I could impose, and the maximum sentence would
11 be forfeiture as charged in the Indictment, correct?

12 MR. ROSEN: Correct.

13 THE COURT: And then if you could please state the
14 disposition the government has agreed to recommend under the
15 plea agreement. And you've given us that now for forfeiture
16 but for the incarceration, fine.

17 MR. ROSEN: Right. We've -- the parties agree, your
18 Honor, that it essentially is a total level of 18, which is
19 determined from the base offense level of 7 plus 12 for the
11:41 20 loss. So that would be a 19. It's the same under either the
21 RICO guideline or under the -- sort of the offense level
22 guideline as calculated in 2E1.1 of the guidelines. You have a
23 plus two of for abuse of position of trust and then minus three
24 for, obviously, acceptance. And you get a 18, which I believe
25 in this case would be 27 to 33 months, your Honor.

1 THE COURT: And --

2 MR. HUGGARD: Just for the record, your Honor, I'm not
3 sure the question was answered. The government has agreed to
4 recommend the low end, and the defendant has not taken a
5 position. We're free to recommend what we want.

6 MR. ROSEN: Correct.

7 THE COURT: Okay. With regard to the position of
8 trust, maybe you can address that when we get to the details of
9 the case that the government would be able to prove.

11:41 10 MR. ROSEN: Sure, statement of facts, yeah.

11 THE COURT: So let me make sure, Ms. Janke, that you
12 understand how sentencing would work and how the guidelines
13 work here. The sentencing guidelines have been issued by the
14 United States Sentencing Commission. I'm required to make my
15 own calculation and consider what the correct calculation is of
16 the guidelines before determining your sentence. So I may
17 disagree with the parties as to what the correct guideline
18 sentence is.

19 Beyond that, the sentencing guidelines are something I
11:42 20 am required to take into consideration, but I can vary, depart,
21 from those guidelines and either sentence you for more time or
22 less time than the sentencing -- than would be covered by the
23 sentencing guidelines. Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: So because I am not bound by the plea

1 agreement, I can also consider any of the additional conduct
2 concerning you and your criminal history, crimes you may have
3 committed, uncharged or dismissed conduct, that is included in
4 the Presentence Report on a -- facts -- just proving the facts
5 to a preponderance of the evidence standard, not beyond a
6 reasonable doubt; do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: So if there are additional facts here, for
9 example, regarding tax treatment of the money or other issues,
11:44 10 I'm free to consider that on sentencing; do you understand?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: And, therefore, because I'm not required
13 to follow the sentencing guidelines and I am required to
14 consider all of the factors under the sentencing statutes, I
15 could impose a sentence that is longer or less than your plea
16 agreement, you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And that I would have the authority to
19 impose a sentence up to the maximum, do you understand that?

11:44 20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: With regard to restitution here, what is
22 the -- what's on the table for that?

23 MR. ROSEN: Again, your Honor, this would be sort of
24 any -- under United States -- Lagos v. United States, it would
25 be any cost incurred by the victim here, USC, in terms of, you

1 know, obviously, you know, fees incurred through the
2 investigation as it pertains to the federal investigation that
3 they were assisting the government with.

4 THE COURT: Okay. Do you understand that, that the
5 victim may be entitled to fees for their expenses during the
6 government's investigation?

7 MR. HUGGARD: That might be a theory, your Honor. We
8 haven't agreed to that.

9 THE COURT: Is there an appeal waiver in this case?

11:45 10 MR. HUGGARD: There is, your Honor.

11 THE COURT: Okay. We'll get to that.

12 Let's talk about the rights that you're giving up here
13 by pleading guilty, make sure that you understand those. Do
14 you understand that there may be legal challenges to the
15 charges that have been brought against you, including
16 challenges to venue in the District of Massachusetts, or there
17 could have been a motion to suppress evidence or a challenge
18 that there is a legal defect in the Indictment, and you will
19 have waived all of those legal challenges if I accept your plea
11:46 20 of guilty?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And now I'm going to go through the trial
23 rights that you have and make sure that you understand those
24 rights that you are giving up.

25 Do you understand that you have the right to plead not

1 guilty to the offense charged against you and to go to trial?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand you have the right to
4 trial by jury?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand a jury is composed of 12
7 jurors who must find beyond a reasonable doubt that you
8 committed the crime with which you're charged before you may be
9 found guilty?

11:46 10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Do you understand at trial you would be
12 presumed to be innocent, and the government would have to prove
13 your guilt beyond a reasonable doubt?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Do you understand that at trial you would
16 have the right to the assistance of counsel for your defense?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Do you understand you would have the right
19 to see and hear all the witnesses against you and to have them
11:46 20 cross-examined in your defense?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you understand you would have the
23 right, if you chose to exercise it, to testify and to put on
24 evidence in your defense?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Do you understand you would have the right
2 to require witnesses to come to court to testify in your
3 defense?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: You understand you would have the right to
6 refuse to testify and refuse to put on evidence unless you
7 voluntarily elected to do so?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: You understand, if you decided not to
11:47 10 testify or not to put on any evidence, those facts could not be
11 used against you?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you further understand that by entering
14 a plea of guilty here today, if I accept your plea, there will
15 be no trial, and you will have waived, or given up, your right
16 to a trial as well as the rights that come with a trial that
17 I've just described?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: So now we turn to the appeal rights. Do
11:47 20 you understand that, but for your plea agreement, there is a
21 right to appeal a conviction and a sentence?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And but for the terms of your plea
24 agreement, you would have had the right to appeal your
25 conviction or to argue in a future proceeding, collateral or

1 otherwise, that your conviction should be set aside or reduced;
2 do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And that, but for the terms of the plea
5 agreement, you would have the right to appeal any sentence I
6 impose either on direct appeal or you could challenge in a
7 future proceeding, collateral or otherwise, do you understand
8 that?

9 THE DEFENDANT: Yes, your Honor.

11:48 10 THE COURT: And do you understand the following appeal
11 waiver provisions in your plea agreement: first, that you will
12 not challenge your conviction on direct appeal or in any other
13 proceeding; second, you will not challenge your sentence,
14 including any order on forfeiture, restitution, fines, or
15 supervised release, on direct appeal, or any other proceeding?
16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And that means that you are giving up the
19 right to appeal my sentence regardless of the sentence I
11:49 20 impose; do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And with regard to this restitution issue
23 -- and maybe, Counsel, I should turn to you. You're suggesting
24 this is an open issue, and I would tend to agree with you. But
25 this agreement would allow me to make my determination on that

1 restitution question without any appeal rights; do you
2 understand that?

3 MR. HUGGARD: Yeah. Your Honor, I don't think there's
4 really -- the government wants an appeal waiver and we need
5 this deal, so we've agreed to the appeal waiver.

6 THE COURT: And, Counsel, on this question, I had
7 talked with my colleagues recently because this appeal waiver
8 in this case and in the case that I was dealing with yesterday,
9 both is a blanket appeal waiver without regard to any limits on
11:50 10 the sentence. And we had a discussion among the judges as to
11 whether this is the new standard appeal, and I subsequently got
12 an email from one of my colleagues that, no, in the case in
13 front of him, what he was used to in the past, which is
14 normally there's a cap and above that cap there is no appeal
15 waiver. So is there a reason that this is being treated
16 differently?

17 MR. ROSEN: No. I don't know what the circumstances
18 are of that case, your Honor.

19 THE COURT: Nor do I. I just know it was yesterday
11:50 20 afternoon. I got an email from my colleague. He said, Nope,
21 wrong. It isn't standard anymore -- it isn't a new standard in
22 the office.

23 MR. ROSEN: Well, the -- it's a difficult question to
24 answer because the appeal -- the appeal waiver had gone under
25 some revision at approximately the same time this case was

1 coming down and we entered into the agreements. And since
2 then, there have been insertions into plea agreements after
3 this one was entered into, I believe, where the appeal waiver
4 was -- they did have caps on the imprisonment time just like
5 they had before.

6 So the answer is, essentially, from -- based on my
7 knowledge, is that it had been -- there have been some flux as
8 to the appeal waivers both at the time of the takedown here, at
9 the time it would have been entered into, and subsequent ones.
10 So subsequent ones might look different.

11 THE COURT: So if I were to find that I could not find
12 a plea to be knowing and voluntary where it gave me the power
13 to sentence the defendant up to 20 years without an appeal
14 right, are you suggesting this wouldn't fly in the face of a
15 policy at the U.S. Attorney's Office and maybe there would be
16 reconsideration? Because to be honest about it --

17 MR. ROSEN: Right.

18 THE COURT: -- what we're really doing here is we're
19 saying, well, hopefully, the judge isn't going to do that. But
20 I'm being given a blank check and without an appeal right.

21 MR. ROSEN: I don't think you're being given --

22 THE COURT: What's the difference?

23 MR. ROSEN: With?

24 THE COURT: With a blank check.

25 MR. ROSEN: Well, with a -- I mean, your Honor, you

1 know, obviously, just said the starting point is the
2 guidelines. We have a cooperation agreement in place. I mean,
3 there's --

4 THE COURT: There's nothing that ties my hands. With
5 my hands being untied, I think I have a blank check. And
6 you're saying that she can't appeal it. And I'm saying, well,
7 if that's the case, is that a voluntary and knowing plea that
8 would understand what we're looking at here? Because I'm not
9 sure that somebody would knowingly give away their right to
11:52 10 challenge a sentence of up to 20 years.

11 MR. ROSEN: Well, your Honor, I respectfully disagree.
12 I think -- it says that in the plea agreement. I think --

13 THE COURT: It says it, but what we're doing here
14 isn't a matter of just formality. We are -- I have an
15 obligation to ensure that a person is entering into an
16 agreement because they know and fully understand the terms of
17 the agreement, not because they're making a bet as to how I'm
18 going to work under this agreement.

19 MR. ROSEN: I think the defendant has made a
11:53 20 calculation that it's a -- there's a certain amount of horse
21 trading in plea agreements and that the plea agreement that she
22 has received is very beneficial to her. And that's --

23 THE COURT: That's the normal part of the plea
24 agreement. The part that's abnormal and -- I mean, I have to
25 say, I was surprised talking with my colleagues yesterday, but

1 talking with my colleagues, there was a bit of a startled
2 response that there is no cap on these plea agreements and that
3 my colleagues reported to me that what they are used to seeing
4 the U.S. Attorney's Office doing is saying, you know, for
5 example, if there was horse trading, you would think that the
6 cap might be what the top of the cap is of what she's giving
7 up, right? Or what you're giving up. That if there were other
8 charges that you could be bringing against her, that certainly
9 that would be the maximum sentence that I could be imposing
11:54 10 before she would have a right to appeal. No?

11 MR. ROSEN: Judge, what I can report -- what I can
12 report is that it's a plea bargain that was entered into, I
13 think, knowing and voluntarily, with experienced counsel and
14 with the defendant, who I've met and I proffered with, and as
15 part of a combined package of a plea agreement as well as a
16 cooperation agreement that are before this Court.

17 It was a plea agreement approved by my office.
18 Obviously, there are some subsequent changes to that, but this
19 was the one that was available to me as the prosecutor at the
11:55 20 time I entered into it.

21 THE COURT: Right. But if I say I don't find this
22 knowing and voluntary and you go back upstairs, will they --
23 will she have a cap put it in then?

24 MR. ROSEN: Judge, I just don't know. I have not
25 broached that issue with the front office, and I just -- I just

1 don't know. I can -- you know, it's just -- I mean, I think it
2 was knowing and voluntary. There's nothing indicating that (a)
3 it wasn't or that it's unfair to the defendant. I think both
4 sides seek finality in some regards. I think we rely on the
5 papers in front of us, the plea agreement and the cooperation
6 agreement, both of which we fully intend to honor. I just
7 don't see how that wouldn't be knowing and --

8 THE COURT: No. But you're fully intending to honor
9 agreements that give you a lot of discretion. So on the
10 cooperation end, if all of the other cases that you're
11 prosecuting end up pleading, you won't need her assistance.

12 MR. ROSEN: Well, that's actually not how I view it,
13 your Honor, respectfully.

14 THE COURT: How?

15 MR. ROSEN: I view it, we generally use people's
16 cooperation to engage in plea agreements and discussions with
17 other defendants. So it's not actually -- I've done plenty of
18 cooperation agreements where no one goes to trial and because
19 -- and it's because so many people have lined up against them.
20 I think that's probably what will happen here in this case.

21 So I don't view it as an all-or-nothing type of, you
22 know, use of cooperation. I think she was obviously the first
23 one in the door with cooperation, and, you know, if she --
24 obviously, if substantial assistance is provided -- but it's
25 not limited to just testimony at a trial.

1 THE COURT: I understand that. But if you have
2 everyone cave without her -- without based on what she has to
3 say, then you have the discretion to say what she had to say is
4 not what led to everyone else pleading, correct?

5 MR. ROSEN: I certainly do, but I think the -- one of
6 the reasons counsel wanted the plea agreement in the record is
7 so we wouldn't be able -- the plea agreement and cooperation
8 agreement in the record so we wouldn't be able to make that
9 argument.

11:57 10 THE COURT: Well, I am not going to use the appeal
11 waiver. I certainly am not interested in people going through
12 more of this process than they need to. I'm not going to use
13 the appeal waiver as a reason to do that. But I do have
14 concern. Essentially, it -- I think it's important that pieces
15 of paper really mean what they say. And if what really happens
16 is that, if I were to give her a 20-year sentence, it will --
17 an appeal would be heard one way or another by the First
18 Circuit. And so the lawyers know that. And so then this
19 becomes a little bit of theater if they're essentially saying,
11:58 20 well, if you really do something extreme, an appeal would be
21 heard despite an appeal waiver and that it would be a far
22 better practice to actually state what the actual rules are.

23 But, at any rate, at least on the face of it, the
24 agreement states that you cannot bring an appeal, and in most
25 circumstances that, in fact, would be the case; do you

1 understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: And, nonetheless, you do reserve the
4 right, as all defendants do, to claim that your lawyer rendered
5 ineffective assistance of counsel or that the prosecutor
6 engaged in serious misconduct in connection with appeal; you
7 understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Okay. I'm going to go through the
11:59 10 elements of the charge against you that would be -- have to be
11 proven by the United States if this case were to go to trial.
12 And then I'm going to ask them to tell us what the evidence is
13 that they would be prepared to introduce at trial. And then
14 I'll come back and ask you if that -- if those facts are true.

15 So Count 1 charges you with conspiracy to commit
16 racketeering. If this case went to trial, the government would
17 have to prove that there was a pattern of racketeering activity
18 substantially as stated in the Indictment, that is, to
19 facilitate cheating on college entrance exams to facilitate the
12:00 20 admission of students to elite universities as recruited
21 athletes regardless of their athletic abilities and to enrich
22 defendant personally; that it was part of the conspiracy that
23 each defendant agreed to commit at least two acts of
24 racketeering activity; that you conspired to participate in or
25 benefit from the racketeering activity; and that your

1 conspiracy to participate took the forms of at least two acts
2 in furtherance of the conduct of the affairs of the enterprise.
3 Do I have that right?

4 MR. ROSEN: I think so, your Honor. The only -- I
5 have basically, you know, derived from the sort of landmark
6 Salinas case, United States v. Salinas, 522 U.S. 61, 1997.
7 Basically, in order to -- I have: In order to be guilty of a
8 RICO conspiracy, a defendant must either agree to personally
9 commit two predicate acts or agree to participate in the
10 conduct of the enterprise with the knowledge and intent that
11 other members of the conspiracy would commit at least two
12 predicate acts in furtherance of the enterprise. So it's
13 either you do it or you know other people are doing it.

14 MR. HUGGARD: Your Honor, I think it's a reach to say
15 that my client understands RICO law, but I think it's fair to
16 say that she understands that what -- the conduct laid out in
17 the Indictment is the conduct that she committed. To ask her
18 to say that she understands the elements of RICO, when we could
19 have quite the discussion about it here among the lawyers in
12:01 20 the room, I think would be asking a lot.

21 THE COURT: Then let me ask you, Mr. Huggard: Do you
22 agree that these elements are correctly cited by Mr. Rosen?

23 MR. HUGGARD: I think he's cited the Salinas case,
24 your Honor, and I think that -- I've seen jury instructions go
25 different ways on some of this, but I do believe the elements

1 are met by the facts that my client is prepared to admit.

2 THE COURT: Okay. So let's go through those facts.

3 MR. ROSEN: If this case were to proceed to trial, the
4 evidence would show that Laura Janke, when she worked at USC as
5 a soccer coach, which goes to the abuse of position of trust,
6 received bribes from Rick Singer to recruit Singer's clients to
7 the USC soccer team.

8 THE COURT: So can I just stop you right there?

9 MR. ROSEN: Sure.

12:02 10 THE COURT: Because, when I read the Indictment, it
11 said that she stopped being employed as an assistant coach of
12 women's soccer on January 10, 2014. Is that correct?

13 MR. ROSEN: That is correct.

14 THE COURT: But there's evidence that you would be
15 prepared to have at trial that she was involved in this scheme
16 while she was still there?

17 MR. ROSEN: While she was there, and then after the
18 scheme ended, she developed a different role within the
19 organization.

12:02 20 THE COURT: Okay. But the abuse of position of trust
21 relates to the period of time that she was an employee of USC,
22 is that correct?

23 MR. ROSEN: Correct. She took bribes as an employee,
24 and then after her coaching position at USC ended, she assisted
25 Singer with his fraudulent admissions scheme by creating

1 falsified athletic profiles for Singer's clients which she knew
2 would be submitted to USC and other schools to help secure
3 admission for Singer's clients as fake recruited athletes.

4 THE COURT: And so just -- I understand you're going
5 to have some more details about that part of it.

6 MR. ROSEN: Right.

7 THE COURT: I'll let you get to that. But just with
8 regard to the bribes while she was employed as an assistant
9 coach of women's soccer at USC, I guess I didn't see anything
12:03 10 in the Indictment that was specific about that, so I didn't
11 know what the government had there.

12 MR. ROSEN: I'll go through -- her and Ali
13 Khosroshahin -- I don't know if my pronunciation is entirely
14 correct on that one. They were -- he was the head coach. She
15 was the assistant coach. They accepted bribes together into
16 this sort of joint checking account for football clubs that
17 they controlled. And in exchange for that, they admitted they
18 recruited Singer's clients who were not competitive soccer
19 players to be admitted to USC.

12:04 20 THE COURT: Did he stay on as coach after 2014?

21 MR. ROSEN: No. He was fired.

22 THE COURT: Both of them, January 10, 2014?

23 MR. ROSEN: Right.

24 MR. HUGGARD: Actually, I believe he left before she
25 did.

1 MR. ROSEN: I believe it was November of 2013 maybe
2 that he left.

3 THE COURT: Okay.

4 MR. ROSEN: Both parts of the scheme that I outlined
5 were affected through numerous mailings, interstate wires,
6 including, but not limited to, mailing of bribe checks to
7 recipients, mailing of acceptance letters after admission,
8 interstate wires to arrange and facilitate bribes, interstate
9 wires to send college applications from the students to the
10 schools.

11 With respect to the first part of the scheme, when Ms.
12 Janke worked at USC, Singer, through both his business account
13 and his charity, the Key Worldwide Foundation, paid Laura Janke
14 and Khosroshahin approximately \$300,000 in the 2012 to 2014
15 time frame. In exchange for these bribes and without the
16 university's knowledge of the payments or the agreements to
17 admit the students as fake athletes, Janke recruited at least
18 four students to the USC women's soccer team for the purpose of
19 securing their admission to the school. These students were
20 not competitive soccer players.

21 These students included the daughter of separately
22 charged defendant, Douglas Hodge; the daughter of separately
23 charged defendant, Toby MacFarlane; the daughter of Philip
24 Esformes, that's E-s-f-o-r-m-e-s, who was recently convicted in
25 Miami of bribing University of Pennsylvania basketball coach

1 Jerome Allen as part of a separate scheme to secure admission
2 for his son to the University of Pennsylvania as well as
3 various healthcare fraud charges.

4 In 2015, after she had left USC --

5 MR. HUGGARD: If I can interrupt. Just so we're
6 clear, the healthcare fraud charges has to do with that other
7 guy, in his other case. It has nothing to do with my client.

8 MR. ROSEN: Nothing to do with Singer.

9 THE COURT: If we can, to the extent that we can limit
12:06 10 it to the things that -- we've got enough things to be dealing
11 with on our table without bringing in other cases.

12 MR. ROSEN: In 2015, after she had left USC --

13 THE COURT: Wait. So let me just stop. Before you
14 get to the after she left, so there were these four students.
15 And, in return, \$300,000 was paid to the two of them, is the
16 allegation?

17 MR. ROSEN: Correct.

18 THE COURT: And, again, is this the -- paid to them
19 personally or paid to a USC checking account?

12:06 20 MR. ROSEN: They were personally payments sent through
21 -- so a lot of coaches, what they do is, during the summer or
22 break, they'll have, like, a separate sort of camp for, like,
23 high school students. It's a way to make money. It's
24 completely legitimate. What they do is they set up bank
25 account for these camps. You know, your kid plays soccer and

1 wants to, you know, improve his skills. He'll go to a football
2 camp during the summer or a break and pay 500 bucks a week for
3 that.

4 So Mr. Khosroshahin and Ms. Janke ran one of these
5 camps. It had a couple of different names over the years.
6 But, essentially, what they did they had an joint checking
7 account for this camp, and so they had Singer make the payments
8 into that joint checking account for the football camp and then
9 split the payments up.

12:07 10 THE COURT: An account with two signatories on it?

11 MR. ROSEN: Correct.

12 MR. HUGGARD: I'm not sure that's always true either.
13 Essentially, your Honor, the money went into the camp and led
14 to an increased profit for the camp. That's the theory. So
15 the camp was more profitable than it would have been otherwise,
16 and then they divided the profits because it's their camp.
17 That's how the money flows to them individually. There are not
18 checks -- in answer to your question earlier, there were not
19 checks made personally to her.

12:07 20 THE COURT: But they're checks from the soccer camp to
21 her?

22 MR. HUGGARD: She gets payment out of the soccer camp,
23 and the camp gets payment from Singer.

24 MR. ROSEN: Essentially, the money goes into the
25 soccer camp, goes back out to Mr. Khosroshahin and Ms. Janke.

1 They split it primarily 50/50, although there was a little --
2 that's sort of where we get the forfeiture amount.

3 THE COURT: And these payments were made in return --
4 we're still talking about the pre-2014 period?

5 MR. ROSEN: Correct.

6 THE COURT: The payments were made in return for
7 putting these four athletes on USC's athletic recruit list?

8 MR. ROSEN: Yes. They were made in exchange for
9 recruiting these students who did not play competitive soccer
12:08 10 onto a USC soccer team, which is one of the top teams in the
11 nation.

12 MR. HUGGARD: Again, I don't think they were actually
13 put on the team. I think they were recommended into the
14 admissions process as athletes but not put on the team.

15 MR. ROSEN: The university was both unaware of the
16 payments as well as -- the university Admissions office was
17 unaware of the payments as well as the deal, the side deal,
18 that had been struck between the coaches and Singer and the
19 families to pay the money.

12:09 20 THE COURT: Okay. So unlike the USC employee you
21 described yesterday, who had the money coming to a USC-owned
22 account that you stated that she controlled, here the money
23 didn't go to a USC-owned account. It went to this private
24 soccer account?

25 MR. ROSEN: Correct.

1 THE COURT: Soccer club account.

2 MR. ROSEN: Yes.

3 THE COURT: Okay. Thank you.

4 MR. ROSEN: After leaving USC -- so now no abuse of
5 position of trust -- she continued to work with Singer up
6 through the time of her arrest in March of 2019. Janke, at
7 Singer's direction, created fake athletic profiles for Singer's
8 clients, which were created to make it appear to the
9 universities that these students were legitimate athletes when,
12:09 10 in fact, they were not.

11 As examples from some of the charged defendants, Janke
12 created a falsified profile that depicted charged defendant,
13 Elisabeth Kimmel's, son as a top-ranked pole vaulter. This
14 profile was used to secure his admission to USC.

15 Janke created a falsified profile that depicted a
16 Canadian client as an elite soccer player. This profile was
17 used to secure admission for this Canadian student to UCLA as a
18 recruited soccer player. The student actually received a 25
19 percent scholarship for his tuition. The soccer coach, Jorge
12:10 20 Salcedo, also charged in this case, received \$100,000.

21 Janke created falsified profiles that depicted charged
22 defendants Mossimo Giannulli, G-i-a-n-n-u-l-l-i, and Lori
23 Loughlin, L-o-u-g-h-l-i-n, their daughters as being legitimate
24 crew coxswains. They were not. These profiles were used to
25 secure admission for these two daughters as recruited USC

1 athletes.

2 She created other falsified athletic profiles for
3 charged defendants, including the children of William
4 McGlashan, Gamal Abdelaziz, Diane and Todd Blake, Michelle
5 Janavs, Marci Palatella, Homayoun Zadeh, amongst others. These
6 profiles were used to secure or attempt to secure admission to
7 USC for the children of the above-mentioned charged defendants.

8 THE COURT: So other than the one UCLA, were all the
9 others USC?

12:11 10 MR. ROSEN: No. There was Stanford. Yale was a
11 student who played -- was depicted as playing, I think, on the
12 Chinese national team and various other thing. Pretty much
13 every school that required a falsified profile and -- which is
14 most of the schools -- not every school did -- was created by
15 Ms. Janke.

16 MR. HUGGARD: Your Honor, I'm not certain that she
17 created every profile used in this case.

18 MR. ROSEN: No.

19 MR. HUGGARD: To the extent Mr. Rosen said that, I'm
12:12 20 not sure that's accurate.

21 MR. ROSEN: No. There were different -- almost
22 everyone. There are profiles created earlier, 2012 to 2014,
23 actually before she left USC, that were created by another
24 individual.

25 THE COURT: Okay. So the profiles that you've alleged

1 in the Indictment, to the extent that there are any that were
2 created before 2014, she's not involved with. And the ones
3 2014 on, she is involved with?

4 MR. HUGGARD: Your Honor, the ones that are listed
5 that he just read to you, those individuals, she was involved
6 in the creation of those profiles. But there are many, many,
7 many, many students -- if you listen to Mr. Singer's plea
8 allocution, you know, he's got hundreds and hundreds and that's
9 not -- there were obviously others out there. But the ones --
10 we're certainly acknowledging the ones that Mr. Rosen
11 referenced today.

12 THE COURT: So let's talk about the specific ones that
13 Mr. Rosen just described. Do you have any disagreement with
14 the facts as to those specific applications?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: And that the allegation is that you
17 assisted in this whole fraud by making these false profiles for
18 the students that he just listed. Any disagreement?

19 THE DEFENDANT: No, your Honor.

12:13 20 THE COURT: Okay. And then, with regard to the time
21 period before you started making the false profile, while you
22 were still at USC, the allegation is that in return for money
23 to the soccer club that you and Mr. Khosroshahin -- is that
24 pronounced correctly?

25 THE DEFENDANT: Khosroshahin.

1 THE COURT: That in return for the payments to that
2 club, that you assisted in -- in adding the names of four
3 students as athletic recruits to USC, is that correct?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: So then are you, in fact, guilty of the
6 facts that we have just described?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: And, counsel, is there any reason the
9 Court should not take the change of plea?

12:14 10 MR. HUGGARD: No, your Honor.

11 THE COURT: So the clerk will please take the change
12 of plea.

13 THE CLERK: You are charged in an Indictment with,
14 Count 1, racketeering conspiracy, all in violation of Title 18
15 United States Code Section 1962(d). You have previously pled
16 not guilty to this charge. Do you now wish to change your
17 plea?

18 THE DEFENDANT: Yes.

19 THE CLERK: How do you now plead to Count 1, guilty or
12:15 20 not guilty?

21 THE DEFENDANT: Guilty.

22 THE CLERK: Thank you.

23 THE COURT: The Court finds the defendant is fully
24 competent and capable of entering an informed plea, that she is
25 aware of the nature of the charges and the consequences of the

1 plea, and that the plea of guilty is a knowing and voluntary
2 plea, supported by an independent basis in fact, containing
3 each of the essential elements of the offense charged. The
4 plea is, therefore, accepted, and the defendant is now judged
5 guilty of this offense.

6 So I just have a few more things, but you may be
7 seated.

8 Have you already met with the Probation?

9 MR. HUGGARD: We're going right down to Probation
10 right after this, your Honor.

11 THE COURT: Okay. So you will be asked to give
12 information. Your attorney may be present. It's important
13 that the report is accurate. It will not only affect what
14 sentence you receive, but it also affects what happens to you
15 after you're sentenced. For example, if you're sent to prison,
16 it will affect where you're sent and what happens to you when
17 you get there. So even minor mistakes in the report should be
18 corrected. You'll have a chance to read the report or -- as
19 will your counsel and to file objections to it before the time
12:16 20 of sentencing.

21 So it has been my practice in the past to hear a
22 specific sentencing recommendation from the probation officer.
23 That does not include any facts that are not in the Presentence
24 Report but that is not disclosed to either side. However, if
25 either side has any objection to my meeting with the probation

1 officer, I will not do so. But you need to provide that
2 objection to the -- to my clerk at the same time that the
3 objections are due to the Presentence Report.

4 At sentencing, you'll have an opportunity to speak on
5 your own behalf as will your counsel. And so with that, I
6 refer you to the Probation Office.

7 We need a date for sentencing. October 17th at 2:30.

8 MR. HUGGARD: That's fine, your Honor.

9 THE COURT: Okay. Under my scheduling order,
10 sentencing memoranda are due a week before.

11 Any concerns about the -- continuing the initial
12 conditions of release?

13 MR. ROSEN: No concerns.

14 MR. HUGGARD: No, your Honor.

15 THE COURT: So those will remain in effect. If you
16 commit any other crimes while you are on release, you are -- it
17 may result in issuance of a warrant and a further consecutive
18 sentence.

19 So with that, I think we're done today.

12:18 20 MR. ROSEN: Thank you.

21 MR. HUGGARD: Thank you, your Honor.

22 THE CLERK: Court is in recess. All rise.

23 (Whereupon, at 12:187p.m. the hearing concluded.)
24
25

C E R T I F I C A T E

I certify that the foregoing is a correct transcript
of the record of proceedings in the above-entitled matter to
the best of my skill and ability.

/s/Cheryl Dahlstrom

Cheryl Dahlstrom, RMR, CRR

Official Court Reporter

Dated: May 16, 2019